

**TESTIMONY OF
CONGRESSMAN PAUL E. KANJORSKI
BEFORE THE SUBCOMMITTEE ON
FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
HEARING ON H.R. 3424, THE COMMUNITY CHOICE IN REAL ESTATE ACT
WEDNESDAY, JULY 24, 2002**

Mr. Chairman, thank you for the opportunity to testify about H.R. 3424, the Community Choice in Real Estate Act, which would prohibit national bank holding companies and their subsidiaries from engaging in real estate brokerage and property management. As you know, I drafted this bill and then late last year introduced it along with my colleague from California. This hearing represents the first time the Financial Institutions Subcommittee has met to deliberate over our legislation.

As part of the 1999 law to overhaul and modernize our nation's financial services industry, we created a framework that prohibits the mixing of banking and commerce, but which permits financial institutions to engage concurrently in banking, insurance and securities activities. During our lengthy considerations of this groundbreaking law, I strongly supported maintaining the firewalls separating the financial and commercial sectors.

The testimony heard yesterday in the Senate about the cozy relationships between Enron and its investment bankers demonstrates some of the dangers of mixing banking and commerce. At the Senate's hearing, we learned more about how some investment bankers misrepresented the true nature of their transactions with Enron in order that the energy company could conceal its real financial state and keep large sums of debt off its books. If we allow the firewall between banking and commerce to disintegrate, there is a strong possibility that troublesome transactions like these would significantly increase and hurt our economy.

To underscore our concerns about the integration of banking and commerce activities, Congress in the 1999 statute specifically banned financial institutions from entering real estate development and investment services. Although real estate management and brokerage represent non-financial, commercial activities, in one of their first acts of interpreting the groundbreaking law, the Federal Reserve and the Treasury Department nevertheless issued a proposed rule that would allow national bank holding companies and their subsidiaries to engage in these pursuits.

Upon learning about the proposed rule, I joined with you, Mr. Chairman, in sending a letter to Chairman Greenspan and Secretary O'Neill to express deep concerns. That letter was signed by approximately three-quarters of the Members of the Subcommittee on Financial Institutions. To their credit, the Federal Reserve and the Treasury Department responded to our inquiry by prolonging the comment period on their proposed rule.

Despite this decision, much uncertainty continued throughout last year about whether, when, and how the two financial regulators would act on their contentious proposal. As you know, Mr. Chairman, I very adamantly oppose this ill-advised regulatory change. That is why I drafted, introduced, and very strongly support the Community Choice in Real Estate Act.

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We designed our bill to maintain a broad array of choices for American homebuyers and home sellers. As you know, Mr. Chairman, H.R. 3424 would make it clear that national banks and federally chartered bank holding companies cannot enter the business of real estate brokerage and management. Our legislation would remove no existing authority from these financial institutions. Instead, H.R. 3424 would simply prevent federal regulators from allowing their proposal to move ahead. Since we introduced the Community Choice in Real Estate Act last December, 244 House Members – representing diverse political, geographical and ideological backgrounds – have joined us in supporting this important legislation.

In addition to preventing the mixing of banking and commerce, the supporters of the Community Choice in Real Estate Act raise numerous other concerns about the regulatory proposal and the need for this legislation. For example, this proposed rule change will have significant social ramifications for our localities and communities. Our nation's realtors provide invaluable community services and leadership to the localities where they live and work. Even if this proposal could in the short run initially result in saving consumers a few basis points, it would in the long run stifle the important community leadership provided by our nation's realtors. That is why I put the word "community" in the Community Choice in Real Estate Act.

Furthermore, the proposed regulation, if finalized, will likely knock many small, independent real estate brokers and managers out of business. This situation would create less competition and eventually result in increased costs and less options for homebuyers. That is why I put the word "choice" in the Community Choice in Real Estate Act.

In recent months, Secretary O'Neill, in observing the high volume of comment letters and the sensitivity generated by this issue, consulted with Chairman Greenspan and decided to postpone a decision on the proposed rule until 2003. I welcomed their announcement. As you know, these regulators received more than 50,000 comments on the real estate management and brokerage rule. They should therefore move cautiously in their deliberations.

In the end, however, this issue is one on which the Congress should have the final word. A majority in the House has joined together to send a clear message that real estate brokerage and property management are commercial business activities and not financial activities. Consumers and small businesses have also lined up behind our efforts. It is, as a result, now time for our Committee to do the right thing and pass H.R. 3424.

In closing, Mr. Chairman, allowing banks to engage in real estate management and brokerage will only hurt consumers, communities, and our economy. We are as a result seeking to stop a problem before it begins. I therefore very strongly urge the Financial Services Committee and then the U.S. House of Representatives to approve H.R. 3424 before the end of the 107th Congress.
